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FOR IMMEDIATE RELEASE

Date: January 13, 2004
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Iowa Recovers \$893,456 in Medicaid Fraud Settlement with Bayer Corporation

DES MOINES, Iowa – Iowa Department of Inspections and Appeals (DIA) Director Steve Young today announced that the State of Iowa has recovered nearly \$900,000 following the settlement of a major Medicaid fraud case. “The Iowa agreement is part of a nationwide settlement involving the Bayer Corporation and represents one of the largest state and national Medicaid fraud settlements ever,” Young said. The Bayer Corp. was charged with violating the federal Medicaid drug rebate statute by failing to report “best price” information.

“Best price is the lowest price that a manufacturer offers its products for sale to commercial purchasers,” Young explained. The federal government then uses this best price information to calculate rebates payable to the state Medicaid program under the statute.

“The state and federal investigations clearly showed that the corporation failed to pay sufficient rebates to the state Medicaid program in connection with the private labeling of certain drugs for health maintenance organizations (HMOs),” the Director said. Medicaid is the federal-state health care insurance program that provides health care coverage for the economically disadvantaged.

The federal Medicaid drug rebate statute is designed to return money to the Medicaid program in the form of rebates from drug manufacturers. The Bayer Corp. sold two of its products,

Cipro (an antibiotic) and Adalat CC (an anti-hypertensive) to HMOs at deeply discounted prices, and then concealed and avoided its obligations to pay rebates to the Medicaid programs. “This fraudulent scheme, referred to as ‘lick and stick,’ was accomplished by relabeling or repackaging these drugs under the HMO’s private label,” Young added.

Under the terms of the settlement agreement, the Bayer Corp. will make restitution to Iowa’s Medicaid Program in the amount of \$483,924, with an additional penalty payment of \$409,532. As part of the settlement, the drug manufacturers will enter into a Corporate Integrity Agreement with the United States Department of Health and Human Services (DHHS). These agreements require a manufacturer to certify its “best price” methodology and will enhance future state enforcement.

DIA’s Medicaid Fraud Control Unit investigates allegation of Medicaid fraud by health care providers and suppliers in Iowa. Personnel in the unit also investigate allegations of abuse and neglect of residents in long-term care facilities that receive Title XIX (Medicaid) reimbursements, as well as allegations that residents have been defrauded of personal funds or possessions.

Last month, the Unit was involved in a settlement with another drug manufacturer, GlaxoSmithKline, which also was charged with violating the Medicaid drug rebate statute by failing to report “best price” information. As a result of that case, the State of Iowa recovered more than \$380,000 in restitution and penalties.

The National Association of Medicaid Fraud Control Units negotiated the settlement with Bayer and GlaxoSmithKline on behalf of 49 states and the District of Columbia. Leading the state negotiation team were the Medicaid Fraud Control Unit directors from Maryland, Pennsylvania and Washington.